

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JANE DOE,

Plaintiff

v.

DEPARTMENT OF DEFENSE, and LEON  
PANETTA, in his capacity as Secretary of  
Defense,

1400 Defense Pentagon  
Washington, D.C. 20301-1400

Defendants.

Freedom of Information Act Complaint

Now Comes, Plaintiff, Jane Doe, a pseudonym, as and for her complaint against the United States of America, states as follows:

1. This is an action pursuant to the Freedom of Information Act, 5 U.S.C. § 552 et seq (“FOIA”), to order the production of agency records, concerning all information in the possession of the Department of Defense regarding the criminal prosecution of Specialist Aaron Michael Pernell, which defendant has improperly withheld from plaintiff.
2. This Court has jurisdiction over this dispute pursuant to 5 U.S.C. § 552(a)(4)(B), which also directs a complainant to file an action in, among other permitted places, the District of Columbia.
3. The plaintiff, Jane Doe, is an individual who is a citizen and resident of the State of South Carolina and is a citizen of the United States of America, and is the requester of the records which defendant is now withholding. Plaintiff has requested this information in connection to her aggravated rape committed by SPC Aaron Pernell and ensuing civil action. Prompt release of the information is essential to plaintiff’s resolution of her case.
4. The Department of Defense is an agency of the United States and has possession of the documents that plaintiff seeks.
5. On December 8, 2010, plaintiff sent a letter, pursuant to FOIA, to Fort Bragg where Mr. Pernell was being tried in a Court Martial, requesting all records concerning the prosecution of Mr. Pernell including, but not limited to the full prosecutorial file in the matter of *United States v. Aaron Michael Pernell*; all trial exhibits; all appellate exhibits; all witness statements from any witness interviewed; all photographs; all drawings or other investigative materials; all maps concerning the crimes he committed; as well as the

complete transcript of all criminal proceedings held in connection with Jane Doe's rape. This letter is attached as Exhibit 1.

6. On December 13, 2010, plaintiff received a letter notifying plaintiff that the documents requested had been referred to the Department of Defense, 82d Airborne Division Freedom of Information (FOIA) Office. This letter is attached as Exhibit 2.
7. To date, the Department of Defense has not responded to the request in Exhibit 1.
8. Plaintiff has a right of access to the requested information under 5 U.S.C. 552(a)(3), and the Department of Defense has no legal basis under the FOIA for withholding the right of access to the subject documents.
9. The failure of the Department of Defense to release the subject documents constitutes a violation of the FOIA.
10. The plaintiff has incurred personal expense in filing her FOIA request and this action against the Department of Defense, including attorneys' fees.
11. Subsection (a)(4)(E) of the FOIA permits the prevailing party to recover attorneys' fees.

WHEREFORE, the plaintiff Maria Durden, requests the Court to:

1. Order the Department of Defense to produce the requested documents pertaining to the prosecution of SPC Aaron Pernell Court Martial.
2. Allow the plaintiff to recover attorney's fees and expenses associated with this action.
3. Grant such and other relief as this Court may deem just and proper.

Respectfully submitted,

CLAPP, DESJARDINS & ELY, PLLC

\_\_\_\_\_/s/\_\_\_\_\_  
Douglas P. Desjardins  
1717 N Street N.W.  
Suite 300  
Washington, D.C. 20036  
*Counsel for Plaintiffs*

# Exhibit 1

**TRANSPORTATION INJURY LAW GROUP**  
ATTORNEYS AT LAW

DOUGLAS P. DESJARDINS \*

1717 N STREET, N.W.  
WASHINGTON, D.C. 20036  
FAX (202) 393-1725

(202)638-5300

December 8, 2010  
Via Electronic and Regular Mail  
foia2.conus.army.mil

FOIA

Attn: IMSE-BRG-HRA-F  
2175 Reilly Rd, Stop A  
Fort Bragg, NC 28310

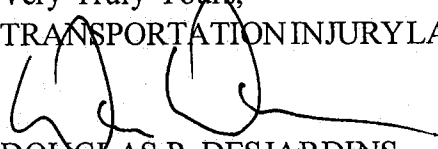
RE: US v. Aaron Michael Pernell

To Whom It May Concern:

Please be advised that our office represents [REDACTED] in connection her aggravated rape. It is my understanding that [REDACTED] s rapist, Aaron Michael Pernell, is now being tried in a Court Marshall at Fort Bragg. Pursuant to the Freedom on Information Act, 5 U.S.C. § 552, please provide us with the all the information in the government's possession concerning the prosecution of Mr. Pernell including but not limited to:

- 1) The full prosecutorial file in this matter; and
- 2) All trial exhibits; and
- 3) All appellate exhibits; and
- 4) All witness statements from any witness interviewed; and
- 5) All photographs; and
- 6) All drawings or other investigative materials; and
- 7) All maps concerning the crimes he committed; as well as
- 8) The complete transcript of all criminal proceedings held in connection with our client's rape.

Our firm is happy to pay all reasonable copying charges to obtain the forgoing. Please do not hesitate to contact me should you have any questions regarding the forgoing.

Very Truly Yours,  
TRANSPORTATION INJURY LAW GROUP  
  
DOUGLAS P. DESJARDINS

DPD:hth

cc: Joseph Anderson, Esq. via e-mail  
Capt. Venghaus via hand delivery

# Exhibit 2



**DEPARTMENT OF THE ARMY**  
US ARMY INSTALLATION MANAGEMENT COMMAND  
HEADQUARTERS, UNITED STATES ARMY GARRISON, FT BRAGG  
2175 REILLY ROAD, STOP A  
FORT BRAGG, NORTH CAROLINA 28310-5000

REPLY TO  
ATTENTION OF:

December 13, 2010

**Freedom of Information Act Office**

Mr. Douglas P. Desjardins  
Transportation Injury LAW Group  
1717 N. Street, N.W.  
Washington, DC 20036

Dear Mr. Desjardins:

This is in response to your Freedom of Information Act (FOIA) request. We received this office December 9, 2010 and have assigned it FOIA Case #FA-11-0041. You've requested for Information pertaining to SPC Pernell Court Martial.

The documents you are requesting falls under the purview of the 82d Airborne Division Freedom of Information (FOIA) office. Therefore, your request has been referred to:

82d Freedom of Information Act (FOIA) Office  
ATTN: AFVC-IM  
Fort Bragg, NC 28310-5000

They will make release determination and reply directly to you. If you have any questions concerning this referral, please reply to the address above or call Mr. Douglas E. Moore, Directorate of Human Resources (FOIA Coordinator), at (910) 907-3642, and refer to the FOIA Case #FA-11-0041.

Sincerely,

A handwritten signature in black ink, appearing to read "John L. Durden, Jr.", is located below the "Sincerely," text.

JOHN L. DURDEN, JR.  
Administrative Services Officer